

Decision Maker: EXECUTIVE

For Pre-Decision Scrutiny at the Renewal, Recreation and Housing PDS Committee on 4 October 2022

Date: 6 October 2022

Decision Type: Non-Urgent Executive Key

Title: GATEWAY REPORT FOR HOUSING MANAGEMENT
PROCUREMENT ACTIONS

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Chief Officer: Sara Bowrey: Director of Housing, Planning, Regeneration & Property

Ward: Borough-Wide

1. REASON FOR REPORT

- 1.1 This report outlines the Council's current Private Sector Leasing and Housing Management Contract which is provided by Orchard & Shipman (Pinnacle) and sets out the options for future procurement.
 - 1.2 The current contract ends on 31st March 2023. A further one-year extension option is available (Report DRR 20/025) and approval for the extension is sought.
 - 1.3 The report sets out the commissioning intentions for this requirement beyond the extension period. It recommends separating the contract into a distinct Private Sector Leasing contract and a separate Housing Management contract. It recommends entering into a new contract for Private Sector Leasing via exemption to competitive tendering; and to commence a compliant procurement process for the Housing Management requirement.
 - 1.4 Given the complexities of being a Social Housing Provider and importance of the tender exercise the report refers to the resource requirements required to carry out this procurement exercise and where this will be funded from.
 - 1.5 Further reports will come back to the Executive in 2023 as set out in this report including a report on the skills and resources required for effective long-term management and operations of the Housing Revenue Account.
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2. RECOMMENDATION(S)

The Renewal, Recreation and Housing PDS Committee is asked to:

2.1 Note the report and provide their comments for consideration by the Executive.

The Executive is recommended to:

2.2 For the current Private Sector and Housing contract with Orchard & Shipman:

- (i) To authorise the remaining one-year extension for the period 1 April 2023 to 31 March 2024 at an estimated value of £3m.

2.3 For future Private Sector Leasing arrangements with Orchard & Shipman:

- i) To separate this element from the Housing Management arrangements (as described in paras 3.8 to 3.17) and approve award of a further contract, via exemption to competitive tendering (as set out in para 3.48/49), to commence from 1 April 2024 for a period of ten years at an estimated value of £3m per annum (whole life value of £30m).
- ii) To delegate authority to the Director of Housing, Planning, Regeneration & Property to vary the contract to secure additional leases/properties from the provider subject to due diligence.

2.4 For future Housing Management arrangements:

- i) Approve in principle proceeding to procurement via a compliant process, as set out in paras 3.18-3.22 and 3.48 for Housing Management provision for a contract to commence from 1 April 2024 for a fifteen-year term (with the option to extend for a further five years) at an estimated annual value of up to £2m (estimated whole life value of £40m).
- ii) To note that a Gateway 1 report setting out the full detail of the proposed procurement will be presented for decision in early 2023, prior to commencing a tender process.
- iii) Agree the drawdown £183k from the Housing Feasibility and Viability Fund earmarked reserve for the resources required in paras 3.28 to 3.36 of this report.

2.7 For the Beehive Scheme:

- i) Agree the drawdown of £32k from the Housing Investment Fund earmarked reserve to procure specialist advice to determine options for the best mechanism for future management of the Beehive scheme, as set out in paras 3.23 to 3.27.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Council's house building programme is focused on affordable housing and seeks to ensure that vulnerable adults and young people are supported to remain in their own homes wherever possible or to secure alternative suitable and sustainable accommodation solutions.
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Transformation Policy

1. Policy Status: Existing Policy: The Housing Management Contract will support existing priorities set out in the Council's Housing Strategy to support Bromley Residents into settled homes.
 2. Making Bromley Even Better Priority (delete as appropriate):
 - (1) For children and young People to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: Estimated Cost £3m (contract extension) + £215k (additional resources and specialist advices)
 2. Ongoing costs: Recurring Cost : Estimated £4.5m per annum
 3. Budget head/performance centre: Housing Allocations and Accommodation
 4. Total current budget for this head: £4.3m net
 5. Source of funding: Existing revenue budget, including Flexible Homelessness Support Grant, Housing Benefit subsidy and Universal Credit. Housing Feasibility and Viability Fund and Housing Investment Fund earmarked reserves (for additional resources and specialist advice)
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: See Section 15
 2. Call-in: Applicable: Executive Decision
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Procurement

1. Summary of Procurement Implications: See Section 7 & 12
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Property

1. Summary of Property Implications: See Section 11
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: See Section 6
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Customer Impact

1. Estimated number of users or customers (current and projected): More than 5,000 households' approach with housing difficulties which could lead to homelessness each year. There are currently approximately 1,600 Bromley households in Temporary Accommodation approximately 70% of these are located outside, the borough. This includes c.1,100 households in costly nightly paid Temporary Accommodation.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council entered into the original contract with Orchard and Shipman using a framework agreement set up via a competitive tendering process undertaken by Midlothian Council in 2011. The Council then entered into a further contract with Orchard and Shipman via an exemption from competitive tendering which commenced in 2016 with a term of 3 years with a 2-year extension option. In September 2018, the Executive authorised the 2-year extension until 31st March 2021.
- 3.2 In March 2020, the Executive authorised the award of a 2-year contract to Orchard & Shipman for the provision of Private Sector Lettings Procurement and Housing Management Services (DRR 20/025) via an exemption to competitive tendering. The Contract commenced from 1st April 2021 until 31st March 2023 with an option to extend until 2024, at an estimated gross value of £1.5m per annum (of which £0.3m related to the management fees for accommodation with the remainder passed directly to private landlords for the private rental charges).
- 3.3 In July 2020, Full Council approved the re-opening and setting up of the Council's Housing Revenue Account ("HRA") for the provision of affordable housing. The Council was registered as a provider of social housing by the regulator on 29 September 2020 (Reg no: 5103).
- 3.4 In October 2020, the Leader of the Council authorised the addition of the management of the 77 former Hyde Social housing properties from the Beehive scheme to be added to the Orchard & Shipman Private Sector Leasing and Housing Management Contract until 31st March 2023 with an option to extend until 2024.
- 3.5 In October 2021, Pinnacle Group acquired Orchard and Shipman and integrated the whole of Orchard & Shipman within the Pinnacle Group, including their registered provider (Orchard & Shipman Homes, which remains as a company in the group structure).
- 3.6 In March 2022, the Director of Housing, Planning, Regeneration & Property in consultation with the Portfolio Holder approved the addition of the management of the 3 Bromley Owned sites, circa 60 properties, in addition to up to a further 49 additional properties to be added to the Orchard & Shipman Private Sector Leasing and Housing Management Contract for a period of 1 year until 31st March 2023 at an annual value of £140k with an option to extend until 2024.

Summary of Business Case

Current Contract

- 3.7 Orchard and Shipman (Pinnacle) currently manage in the region of 390 (potential for an additional 50) units as part of the Council's Accommodation portfolio, including the management of:
- 157 Private Sector Leasing Homes ("PSL")
 - 54 Bellegrove (including out of hours)
 - 62 Manorfield (including the self-contained)
 - 77 Properties under the Beehive Scheme
 - 60 Newly built Bromley Owned Properties (3 Sites)
 - 50 Potential additional Bromley Owned Properties- depending on completion date (2 Sites)
 - 16 Other Bromley owned street properties.

PSL Element

- 3.8 Due to increased homelessness, the Afghan Resettlement Scheme, and the war in Ukraine there is high and increasing demand for the provision of Temporary Accommodation ("TA")

across London and the Southeast. Similar to Bromley other London Boroughs are actively procuring outside of their boundaries in order to source sufficient accommodation to meet their requirements. There is also increasing competition from the Home Office and Probation Services.

- 3.9 Under the existing PSL Contract the accommodation is procured independently by Orchard & Shipman and there is no option within the contract for the properties to be passed to the Council. There is a danger that, in ending this contract, Orchard and Shipman would let the accommodation to another Local Authority or organisation as TA and we would need to source new accommodation to meet our statutory obligations. This would impact 157 PSL properties the Council currently utilise under this contract placing a further strain on the Council's revenue budget.
- 3.10 Officers have previously considered splitting out the management services of the PSL units and Council owned accommodation units, however at the time this was not a financially advantageous change given the market conditions. Orchard and Shipman currently charge a competitive weekly management fee per property compared to other tenders. When previously presenting options to Members Officers have investigated the market to evidence value for money in support of contract extensions. A cross-London procurement scheme was implemented which sourced accommodation on a spot purchase basis for a weekly management fee which was in excess of £80- 100 per property per week with additional GLA Grant tops up, rising to £124 in some instances.
- 3.11 Previously the different property management arrangements were combined within the existing contract and under the agreed pricing schedule in order to reach a quantum. This provided significant savings to the Council as the management fees charged were below current market values.
- 3.12 Given the additional quantum of Bromley Owned Properties created through the Bromley led developments, in addition to this Contract not being competitively tendered since 2011, and in accordance with Procurement Regulations the Housing Management aspect of this contract needs to be competitively tendered although this is likely to result in higher Management costs than we are currently paying.
- 3.13 As a result of the on-going and increasing pressures on TA and the dangers of losing 157 PSL properties at the end of the Orchard & Shipman (Pinnacle) Contract on the 1st April 2024, Officers consider extending the existing Contract with Orchard & Shipman (Pinnacle) for the 157 existing live PSL properties to safeguard our access to existing stock.
- 3.14 The PSL scheme works on a Lease cycle of 3 and 5 years at which point the Council can choose not to renew the lease if the Property or financials do not meet the agreed model. In addition to this in the first 12 months if the agreement is not working out the arrangement can be ended plus we have the right to give notice and end the lease at any point.
- 3.15 To make this contract financially viable for both the Council and Orchard & Shipman (Pinnacle) and to ensure continuity of the properties and management of the same for our residents rather than entering into a short term contract with the Provider with the option to extend for short periods of time and the success of the current scheme Officers recommend a longer term contract period of 10 years to attempt to allow the market to stabilise following recent changes to legislation in respect of lettings, the roll out of universal credit, Covid-19, and TA subsidy reviews.
- 3.16 With the Cost-of-Living Crisis and the ongoing increase in demand the need for accommodation continues to increase in addition to all of the other pressures on accommodation set out in paragraph 3.8 above Officers also consider that it would be beneficial to the Council to make

the contract with Orchard & Shipman (Pinnacle) flexible so that they can procure additional new PSL/Properties in addition to the 156 live PSL Properties we would already have. Any new properties would need to meet the financial model and present a saving on Nightly Paid accommodation or provide suitable accommodation that cannot be procured through another route for the Council to help alleviate ongoing revenue budget pressures and the Council's statutory housing duties.

3.17 In view of the fact of the above the Council will also to seek all opportunities to increase the supply of affordable housing and reduce the costs in providing TA to meet statutory rehousing duties and in particular the reliance on costly forms of nightly paid accommodation. As part of the Council's commitment Officers will carry out a soft market testing exercise to get a better understanding of the Private Sector Leasing Market and whether there are any opportunities for a future procurement exercise for additional PSL contracts with other providers. The outcome of this exercise will be reported back to the Executive in due course.

Housing Management Contract

3.18 Due to the nuances of the various types of Bromley Owned Property Schemes the Housing Management Contract will need to include the minimum level of management services and stock in addition to being flexible enough to add additional properties and sites as well as removing sites as they are agreed by the Council for either development or disposal as the Council continues to work through its Transformation Programme.

3.19 As a provider of Social Housing the Council will be looking to award a contract to a Registered Housing Provider who has no enforcement action against them with the Regulators. In addition to these two requirements and given the nature of this contract the Provider will also be required to have a local base within or near to the Borough.

3.20 The Council has initial specifications setting out the Contractors responsibility for generic Housing Management and tenancy/occupancy support duties,

- Lettings & Allocations
- Income Management
- Void Management
- Tenancy Management
- Property Management
- Performance Management
- Customer Care

however further work is required on the Specification to ensure that the Council addresses all the different schemes for both now and in the future a detailed set of tender documents will come forward with the Gateway 1 Report in early 2023.

3.21 The initial list of sites and properties that might be included as part of the tender exercise:

- Chris Whitty Place (25)
- George Grove Road (10)
- Kevin Fenton Mews (25)
- York Rise (35)
- West Wickham (14)
- Bellegrove (48) (54 rooms including out of hours)
- Manorfield (45) (62 including the self-contained)
- Beehive Scheme 1 & 2 (77)
- 2 Traveller Sites (14 and 22 pitches)
- 16 Bromley Owned Street Properties

3.22 Ahead of the Procurement exercise proposed for March 2023, Officers will carry out a soft market testing exercise and further work on the stock that will be included in this Contract now and in the future. This will include the outcome of a further potential 5 Council led developments totalling circa 206 properties depending on the Operational Property Review, Financial Business Cases and Council approval including Planning Permission that could be added in the future. In addition to other opportunities in terms of other schemes and Housing Management arrangements that the Council have in place. A report will come back to the Executive in January/February 2023 with further details.

Beehive

3.23 When the Council entered into the Beehive Scheme in October 2020/March 2021 it was agreed that the vacant properties were initially held in the General Fund as the Council's duties in respect of homelessness fell outside of the Housing Revenue Account. On completion of each tranche of leases acquired by the Council from Beehive, the Council granted underleases to Orchard and Shipman who are responsible for the maintenance and management of the properties through a variation to the existing PSL and Housing Management Contract until 31st March 2023 with an option to extend for 1 year until 2024.

3.24 The leases from Beehive to the Council permit an underlease to a third party or Wholly Owned Company or Limited Liability Partnership without the prior consent of Beehive. In order to do this from the General Fund the Council had to comply with the duty imposed in section 123 of the Local Government Act 1972 to obtain the best consideration reasonably obtainable. The rents payable by Orchard & Shipman under the underleases complies with this duty even though these leases will be for terms of less than 7 years.

3.25 As referred to in the report to the Executive in March 2021, and in preparation for the tender exercise the Council need to determine the options in terms of the long-term management of the Beehive Properties. This could involve transferring the properties into the HRA and/or leasing them to a Wholly Owned Company/Limited Liability Partnership or to a Registered Provider which will be able to grant assured shorthold tenancies or transferring to the HRA and then adding them to the tender exercise for the wider Housing Management Contract.

3.26 In order to do this the Council need to procure specialist legal and financial advice in terms of the longer-term management options for these properties especially in terms of any tax, state aid and best consideration implications in addition to any formal business case requirements that is legally required in terms of taking forward any of the options referred to in paragraph 3.24.

3.27 A Contract will be awarded through a compliant legal service Framework Agreement and our existing Financial and Tax advisors, and it is requested that £32k is allocated for these costs from the Housing Investment Fund earmarked reserve. A further report will come back to the Executive in early 2023 setting out the options and recommendations in terms of the Beehive Scheme.

Resources

3.28 The Council transferred its housing stock to Clarion Housing Association (formerly known as Broomleigh) in 1992 and subsequently closed its Housing Revenue Account ("HRA"). The Council has had no in-house expertise or capacity for the operational running of the HRA or Management of residential housing stock within either Housing or Strategic Property since that time.

- 3.29 The quantum of properties acquired either through self-delivery or leasing has not been sufficient for the Council to consider a resource plan for the HRA and Housing Management and therefore the initial schemes were added to the existing PSL and Housing Management Contract with Orchard & Shipman until 2024. Departmental functions within Housing, Regeneration, Corporate Transformation, Finance and Strategic Property have been supporting the inception of the new housing stock and management of the same.
- 3.30 As the quantum of properties increases a more structured approach as to the strategic asset management, risk management of asset condition, liability, statutory compliance and maintenance strategy and delivery of such is now required to ensure that the Council's overall position is effectively managed in a transparent and value for money driven approach in accordance with the Council's Procedures including the procurement of the future Housing Management Contract.
- 3.31 Whilst officers have generic property commercial management skill sets, the Regulated Housing skill sets are very different. Similarly, whilst colleagues in Housing have general housing skills, they have not had to manage our own housing stock. Given the complexities and nuances around this area neither team currently have the capacity or skill set to manage our own stock or address the requirements for the future Management Contract ensuring that we introduce a financially sustainable model now and, in the future, whilst at the same time meeting our statutory duties in terms of not only our housing duties to our residents but also our responsibilities as a Social Housing Landlord and Provider.

Resources Proposal

- 3.32 In the first instance Officers will go out to recruit a Head of Housing Schemes with the relevant skills, knowledge, and experience via the Matrix Framework for a fixed term period of 2 years at a cost of up to £200k.
- 3.33 This role will report directly to the Director of Housing, Planning, Regeneration and Property. and support the work required to manage the existing housing stock under the Orchard & Shipman (Pinnacle) Contract, accept the future developments into the same but also focus on leading on the tender process and the requirements for the specification for the Housing Management Contract now and in the future.
- 3.34 A project team will be set up for the Tender exercise led by the Director of Housing, Planning, Regeneration & Property and supported by the new Head of Housing Schemes in addition to colleagues in Housing, Regeneration, Strategic Property, Procurement, Legal, IT, Finance and Corporate Transformation.
- 3.35 Part of the work for this role will be identify the long-term growth pressures and resource requirements needed to manage the Housing Management Contract and the HRA, a lot of the resource requirements will be dependent on the stock levels but will also involve reconfiguration and upskilling of existing staff. Given the risks involved in being a Social Landlord Provider and the complexities of holding our own stock it is too much of a risk for the Council to not put resources in place in the longer term to manage this area of work and this will need to be funded in the longer term.
- 3.36 Future reports will come back to the Executive in 2023 setting out the longer-term resource requirements and the options around how these resources will be funded. The ideal Business Plan would be for the HRA to be self-sufficient and cost neutral in the longer term however this will be dependent on the rental income into the HRA which links to the level of stock held within the HRA. Under the regulations the HRA is not allowed to run at a deficit so in the first few years' alternative solutions will need to be put in place to fund the resources which will be a minimum a of a Head of Service post and at least 2 additional support officers. In the initial few

years, the resources are likely to need to be funded through a mixed model of rental income and a reduction on the Nightly paid savings, but more work will be required to determine the practicalities around these options.

Service Profile / Data Analysis / Specification

- 3.37 For Bromley, like most London Boroughs one of the most significant long-term cost pressures is the impact of homelessness and provision of Temporary Accommodation (“TA”). There are currently approximately 1,600 households in TA. This includes c. 1,100 households in costly nightly paid TA. It costs the Council an average of £6,100 per household per annum in nightly paid accommodation, this in turn puts a continued strain on the Council’s revenue budget which impacts on other services.
- 3.38 The economic fall out of the pandemic coupled with the impact of the war in Ukraine, recently led to the Bank of England to warn that household disposable incomes are likely to shrink by 2% this year, the biggest fall since records began in 1990. When the cost-of-living increases, homelessness does too.
- 3.39 Recent studies by Heriot Watt University, indicate that levels of “core homelessness” will have gone up by one-third between 2019-2024.
- 3.40 Whilst the Council has continued to increase the range of early intervention, outreach, and support services to tackle homelessness the number of people living in TA and the cost of providing this resource continues to rise. The ongoing disparity between local housing allowance levels and the incomes of low to moderate wage earners in comparison to local market rents is continuing to widen and is putting an increased number of households at risk of homelessness. Without a significant increase in access to genuinely affordable accommodation there will continue to be rising demand for TA.
- 3.41 The Council therefore continues to seek all opportunities to increase the supply of affordable housing and reduce the costs in providing TA to meet statutory rehousing duties and in particular the reliance on costly forms of nightly paid accommodation including but not limited to:
- Joint Venture with Mears– More Homes Bromley LLP – June 2016
 - Beehive Scheme -Feb/July 2021
 - Meadowship Homes LLP – Phase 1 with O & S (Pinnacle) – August 2021
 - Building our own stock (5 Schemes in progress to date) – August 2022
 - Meadowship Homes LLP Phase 2 with O & S (Pinnacle) – August 2022

In addition to other Council Schemes through Nomination Agreements with Housing Associations, Schemes like Bellegrove & Manorfields, Private Sector Leasing Schemes.

Options Appraisal

3.42 The following options have been considered at this time:

3.43 Option 1 – Decommission the Service – Not Recommended

This is not a viable option as there is an on-going need for this service to enable the Council to meet its legislative duties in terms of being a Social Housing Provider and Landlord in addition to its housing duties in terms of homelessness.

3.44 Option 2 – Extend the current contract via a further exemption from tendering – Not Recommended

This option is not recommended given that this contract has not been competitively tendered since 2011 and under the Procurement regulations with the increased quantum this contract must go out to the market.

3.45 **Option 3 – Set up a Management Service in house – Not Recommended**

This option is not financially viable as this would require the Council to set up a whole team in addition to setting up its own supply chain of contractors with specialist skills in order to manage a relatively small number of properties and tenancies.

3.46 **Option 4 - Conduct a Competitive Procurement Exercise for a combined PSL and Bromley Owned Accommodation Management Scheme – Not Recommended**

This option is not viable with the current portfolio of PSL properties as the current PSL properties are not within the Council's control.

3.47 **Option 5 – Award a contract via a compliant Framework- Not Recommended**

The Head of Procurement carried out an exercise to look at the potential for the Council to award a Housing Management Contract via a suitable Framework. Following that search four potential frameworks were identified for consideration:

- LHC Framework
- Procurement for Housing
- Homes for England
- Crown Commercial Services RM6168

Whilst the frameworks had roots in housing services none of them were suitable to meet the Council's requirements in terms of the different stock requirements or the need to be a Registered Provider. Officers also noted that the Crown Commercial Services Framework is due to end on 20th July 2024 which would not meet the Council's needs.

3.48 **Option 6 – Split the Existing Contract and - Recommended**

A)- Award a contract via an exemption from Tendering to Orchard and Shipman (Pinnacle) for a PSL Contract only.

B)- Carry out a Soft Market Exercise to assess the Market for future PSL Contracts with additional providers.

C)- Conduct a Competitive Procurement Exercise Housing Management Contract for Bromley Owned Accommodation

It is recommended that a formal tender process to procure a Housing Management Contract commences in March 2023 to allow time for a full tender exercise to be undertaken so that a new Housing Management Contract can be in place for 1 April 2024 and to ensure that the Council meets its statutory duties in terms of homelessness and that of a Social Housing Provider. A one stage open procurement process is proposed with the Council's standard weighting to be applied of 60% Price and 40% quality as set out in paragraph 7.4 of this report.

Preferred Option

3.49 See Option 6 A-C above – to split the PSL and Housing Management Contract and award a Contract via an exemption from tendering to Orchard & Shipman (Pinnacle) for the PSL element and commence a formal tender process in March 2023 with the preparation work to commence in Autumn 2022. Ahead of going out to tender in March 2023 a final report will come back to the

Executive in January/February 2023 with any final details following further work as detailed in this report.

4. MARKET CONSIDERATIONS

- 4.1 The last time this contract was competitively tendered was in 2011 by Midlothian Council which the Council awarded through. Since this time this contract has been subject to a number of Exemptions from Competitive tendering for the reasons detailed in this report.
- 4.2 As set out in Paragraphs 3.11 Officers have looked at the market at various times but given the low quantum of Bromley Owned Stock the current pricing arrangements with O & S at a competitive rate per property per week compared to other tenders.
- 4.3 Given the additional quantum of Bromley Owned Properties in addition to this Contract not being competitively tendered since 2011, Officers consider that this is the right time to carry out a full procurement exercise to enable us to test the market although this is likely to result in higher Management costs than we are currently paying.

5. SOCIAL VALUE, CARBON REDUCTION AND LOCAL / NATIONAL PRIORITIES

- 5.1 The Public Services (Social Value) Act 2012 requires Local Authorities to have regard to economic, social, and environmental wellbeing in connection with public service contracts. In doing so, the London Borough of Bromley contracted services must consider these factors when tendering for a new service and measures must be put in place to ensure that Providers adhere to the Council's Social Value and Local/National Priorities.
- 5.2 In proceeding to procurement, the new Housing Management contract and service specification will be reviewed to maximise the Social Value opportunities. For example, Providers will be asked to convey via the tender their Social Value strategy which will include detail on what they will do to grow the local economy e.g., via apprenticeships and work placements for residents. Providers will also be asked to consider the impact of their service on the environment. This may include encouragement of active travel for staff and service users and resource efficiency in terms of sourcing equipment, in line with the Council's Net Zero Carbon ambitions.

6. STAKEHOLDER ENGAGEMENT

- 6.1 Work has already been undertaken on some areas of the specification in terms of the Bromley owned Properties as a result of the contract variation to include the new properties. Moving forward and pending authorisation to proceed to procurement a cross departmental project team will be set up to inform the Specification/performance framework going forward.
- 6.2 Service User feedback is regularly gathered by the Provider and included in quarterly Contract Management Meetings for information and discussion.

7. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 7.1 **Estimated Value of Proposed Action:** The report proposed three distinct procurement actions:
 - A one-year extension of the current Private Sector Leasing and Housing Management contract held with Orchard & Shipman, the extension to commence from 1 April 2023 at an estimated value of £3m.

- A further award of contract to Orchard & Shipman, via exemption to competitive tendering, for a ten-year contract commencing 1 April 2024 at an estimated annual value of £3m (whole life value of £30m).
- To proceed to procurement for a Housing Management contract for a fifteen-year contract with the option to extend for a further five years. The contract is intended to commence from 1 April 2024 at an estimated annual value of £1.1m (whole life value of £22m).

7.2 **Other Associated Costs:** £183k to be drawn down from the Housing Feasibility and Viability fund to fund resources for up to £200k and £32k from the Housing Investment Fund for the specialist advise required for the Beehive Scheme.

7.3 **Proposed Contract Period:** As set out in Paragraph 7.1

7.4 For the Housing Management contract, the contract length is based on the size and nuances of the stock in addition for the need to make the scheme financially viable in terms of the 8–10-year cyclical maintenance cycle to ensure that a provide invests in the condition of the stock in the longer term. The final agreed contract length will be further informed through soft market testing and set out in the Gateway 1 Report in early 2023.

7.5 The proposed tender process will be carried out with support from Corporate Procurement in line with the Council’s Contract Procedure Rules and compliance with the Public Contracts Regulations 2015 requirements via a 1-stage open process. Prospective bids will be evaluated on a 60% price and 40% quality split. The proposed quality criteria and weightings are set out below:

Criteria	Weighting
Financial	5%
GDPR	5%
Service Delivery	30%
Support to Users	20%
Quality Assurance	25%
Implementation	10%
Social Value	5%
Total	100%

7.6 The table below provides an indicative procurement timetable

Pre-Tender Preparation	Prepare Gateway 0 Report on Procurement Proposals	August/September 2022
	RRH Authority to proceed to Prepare for Procurement	4 th October 2022
	Executive Authority to proceed prepare to Procurement	6 th October 2022
	Minutes Published	October 2022
	Call in	October 2022
	Issue a Notice for Soft Market Testing to inform the Specification for the Housing Management Contract	17 th October -Noon - 15 th November
	PSL Contract start initial discussions with O & S	November 2022
	Procure Specialist Legal/Finance advice on the Beehive Scheme	October/November 2022
	Preparation of Documentation	
	Determine Stock levels/Scope	October 2022/March 2023
	Specification	
	Performance Framework/KPIs/Default Mechanisms	
	Contract/Performance Bond	
Client/Contract Management Function		

Internal Authorisation	Gateway 1 Report Authorisation to Proceed to Procurement to the RR & H on the Housing Management Tender	Jan/February 2023
	Gateway 1 Report Authorisation to Proceed to Procurement to the Executive on the Housing Management Tender	
Procurement Stage	Find a Tender and Contracts Finder Notice Issued	6 th March 2023
	Issue SQ and ITT with all other Procurement Documents	6 th March 2023
	Closing date for Clarification questions	12 Noon on 14 th April 2023
	Closing date for return tender Responses	12 Noon on 12 th May 2023
	Evaluation of the Tender Responses	15 th May – 29 th June 2023
	Potential Clarification Interviews	3 rd July – 14 th July 2023
	Final Evaluation of Tender Responses	17 th July – 4 th August 2023
Internal Authorisation	Award Report Preparation	7 th August – 1 st September 2023
	RR & H PDS	September/October 2023
	Executive	September/October 2023
	Minutes Published	September/October 2023
	Call in Period	September/October 2023
Mobilisation	Anticipate Telling Tenders	September/October 2023
	Contract Mobilisation	October/November 2023
	Contract Start	1 st April 2024
PSL Contract with OS	Finalise the Contract terms	August/ September 2023
	Sign the Contract Documents	October/November 2023
	Contract Mobilisation	October/November 2023
	Contract Start	1 st April 2024
Future additional PSL Soft Market Exercise	Issue a Notice	20 th March 2023
	Clarification Questions Closes	21 st April 2023
	SMT Exercise Closes	Noon 2 nd May 2023
	Review of the Market	May 2023
	Report to RRH PDS	June/July 2023
	Report to Executive	June/July 2023

8. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN)

- 8.1 This management contract supports children and vulnerable people through the provision of good quality cost effective housing supply increasing access to local accommodation ensures that access to existing services and support networks can be maintained.

9. TRANSFORMATION/POLICY IMPLICATIONS

- 9.1 There are a number of key policies that the Housing Management Contract will support and deliver towards including but not limited to:

1. Bromley's Homelessness Strategy 2018-2023 sets out the Council's strategic aims to :
 - a. Increase the number of Homes in Bromley
 - b. Provide better quality and more affordable homes
 - c. Prevent and tackle homelessness
 - d. Support vulnerable people
 - e. Build a minimum of 10,645 new homes in Bromley between 2015-2030 subject to the new London Plan (including 1,000 new homes on Council owned Land).
2. Local Plan 2020-2035 that makes provisions for
 - a. An appropriate supply of homes to meet varied needs and incomes of the local population

- b. This mandates the Council to make provision for a minimum average of 641 additional homes per annum over the 10-year plan and within 15 years.
- 3. Council's Corporate Strategy 2021-2031 sets out a number of key priorities including:
 - a. The delivery of 1,000 new affordable quality homes
 - b. Meet the Council's housing targets as set out in the Local Plan 2020-2035
 - c. Implement the Council's Homelessness Strategy 2019-2029
 - d. Reduce Temporary Accommodation

10. IT AND GDPR CONSIDERATIONS

- 10.1 A Data Privacy Impact Assessment will be completed as a part of the procurement process. Providers will need to demonstrate they are compliant with all GDPR and data protection legislation and data storing requirements.
- 10.2 As part of the tender process Officers will need to identify the changes that may be required to the existing Housing Management IT systems and future options will form part of the Award Report.

11. STRATEGIC PROPERTY CONSIDERATIONS

- 11.1 Strategic property will be consulted in the preparation of the tender documents to ensure all relevant areas are addressed and in accordance with the Council's policies and Procedures.

12. PROCUREMENT CONSIDERATIONS

For the current Private Sector and Housing contract with Orchard & Shipman:

- 12.1 This report seeks Approval to make use of the extension option in the Council's contract with Orchard & Shipman from 1st April 2023 until 31st March 2024 at a cost of £3m.
- 12.2 The Council's requirements for authorising an extension are covered in CPR 23.7 and 13.1. For an extension of this value, the Approval of the Executive following Agreement by the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services, the Director of Finance, and the Portfolio Holder must be obtained. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 12.3 Following Approval, the extension must be applied via a suitable Change Control Notice, or similar, as specified in the contract.

For future Private Sector Leasing arrangements with Orchard & Shipman:

- 12.4 Further, this report seeks to award a contract to Orchard & Shipman via exemption from competitive tendering for provision of existing PSL lease properties for a period of 10 years at estimated cost of up to £30m, commencing 1st April 2024.
- 12.5 This is a supplies contract, and the value of this procurement is above the thresholds set out in Part 2 of the Public Contracts Regulations 2015. The justification cited within Section 3, is permissible under Regulation 32 (b) (ii) of the same.
- 12.6 This action is permissible under the general waiver power of the Council (CPR 3.1). The Council's specific requirements for authorising an exemption are covered in CPR 13 with the need to obtain the Approval of the Executive following Agreement by the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services, the Director of

Finance, and the Portfolio Holder for a contract of this value. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

- 12.7 Due to the contract value, award notices will be published on Contracts Finder and Find a Tender Service.

For future Housing Management arrangements:

- 12.8 Further, this report seeks approval in principle to proceed to procurement for the provision of housing management services via a compliant process to commence from 1 April 2024 for a fifteen-year contract with the option to extend for a further 5 years at an estimated whole life value of £30m, with a further report being presented for decision in early 2023.
- 12.9 The procurement process selected will need to be appropriate for the value of the requirement. The Council's specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules.
- 12.10 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

13. FINANCIAL CONSIDERATIONS

- 13.1 The estimated gross cost and related income of the existing contract with Orchard and Shipman and proposed extension is set out in the table below:

	Current contract			Proposed extension	Total
	2021/22	2022/23 (est)	Sub total	2023/24 (est)	
	£'000	£'000	£'000	£'000	£'000
<u>PSL</u>					
Expenditure	1,719	1,859	3,578	1,859	5,437
Rent Income	-1,370	-1,509	-2,879	-1,509	-4,388
	349	350	699	350	1,049
<u>Bellegrave & Manorfields</u>					
Expenditure	775	775	1,550	775	2,325
Rent Income	-460	-463	-923	-463	-1,386
	315	312	627	312	939
<u>PIL properties</u>					
Expenditure	33	33	66	33	99
Rent Income (part only)	-33	-33	-66	-33	-99
	0	0	0	0	0
<u>Beehive</u>					
Expenditure	32	91	123	180	303
Rent Income (part only)	-32	-91	-123	-180	-303
	0	0	0	0	0
<u>LBB developments</u>					
Expenditure	0	0	0	117	117
Rent Income (part only)	0	0	0	-117	-117
	0	0	0	0	0
Grand total					
Expenditure	2,559	2,758	5,317	2,964	8,281
Rent Income	-1,895	-2,096	-3,991	-2,302	-6,293
	664	662	1,326	662	1,988

- 13.2 The gross cost of the proposed extension is estimated to be around £3.0m with a total cost over the maximum 3-year period of £8.3m. Including the related rent income, the estimated

net annual cost will be around £0.7m with a total cost over the maximum 3-year period of £2.0m.

- 13.3 Based on current numbers of units and costs, the estimated gross cost of the PSL scheme is around £1.9m per annum. However, to allow for potential increases in the number of PSL units as well as increases in landlord costs, it is proposed that the contract is awarded based on an estimated cost of up to £3m per annum, with a whole life value of £30m. As set out in paragraph 3.15 above, this potential increase will only be used as long as the units are more cost effective than other forms of temporary accommodation that the Council can access.
- 13.4 Details of the estimated costs of the proposed Housing Management contract will be refined for the gateway 1 report requesting agreement to commence a procurement exercise; however, based on the current number of units and costs as shown in the table in paragraph 13.1 above, the gross cost of this contract would be around £1.1m per annum; however, as referred to in paragraph 3.10, the costs are likely to increase following the procurement exercise, and could increase to up to £2m per annum.
- 13.5 All of the schemes detailed in the table in paragraph 13.1 above deliver significant savings compared to nightly paid accommodation. Based on current numbers of units and costs, the net savings total around £1.9m per annum.
- 13.6 As set out in paragraphs 3.23 to 3.27, specialist advice is required in respect of the future structure for holding the Beehive properties, which is estimated at around £32k, and it is proposed that this is funded from the Housing Investment Fund earmarked reserve.
- 13.7 In addition, paragraphs 3.28 to 3.36 refer to a requirement for additional resources, and it is proposed that this is funded from the balance of £183k in the Housing Feasibility and Viability Fund earmarked reserve.

14. PERSONNEL CONSIDERATIONS

- 14.1 There are no Personnel Considerations at this stage the resource requirements will come through the Council's Matrix Framework and follow the agreed Council processes. Future reports will come back to the Executive on resource requirements as set out in paras 3.28-3.36 of this report.

15. LEGAL CONSIDERATIONS

- 15.1 The Council has certain legal duties and powers towards persons to whom the council provides housing tenancies to under the Housing Act 1985 and must comply the regulatory requirements and standards set by the Regulator of Social Housing under the Housing & Regeneration Act 2008 and the Housing and Regeneration Act 2008 (Registration of Local Authorities) Order 2010. The Council therefore have the legal power to manage those tenancies and to enter into a contract with a provider for the provision of general housing management services ('Permanent Housing').
- 15.2 The Housing Act 1996, Part 7 (as amended) sets out the Council's statutory homelessness duties, including the duty to provide temporary accommodation for certain classes of people and in certain circumstances.
- 15.3 The Council can rely on Part 7 of the Housing Act 1996 to provide temporary accommodation together with the general power of competence in section 1 Localism Act 2011. Accommodation made available Part 7 of the Housing Act 1996 strictly as provided by Schedule 1 of the Housing Act 1985, will not be a secure tenancy or license. The Council

therefore have the legal power to manage those tenancies and to enter into a contract with a provider for the provision of general housing management services ('Temporary Housing').

- 15.4 As explained in this report the Council has a portfolio of properties which have been secured through a Private Sector Leasing Scheme (PSL) with Orchard and Shipman who lease properties to the Council and who then manage Council's tenancies and license within Schedule 1 of the Housing Act 1985 under a Housing Management Contract .
- 15.5 As explained in this report the Council meets its current needs for the provision of housing management services in relation to accommodation provided under both its General Housing duties and its Temporary Housing duties through the current Housing Management Contract with Orchard and Shipman which was approved by the Executive in March 2020 from 1st April 2021 until 31st March 2023 with an optional 1-year extension.
- 15.6 For the reasons set out elsewhere in this report the Executive is being asked to approve a recommendation to take up the option available and extend the term of the Housing Management Contract with Orchard and Shipman for a further period of 1 year for the provision of both the Permanent and Temporary Housing management services.
- 15.7 Previous reports have explained that due to the nature of the Orchard and Shipman Contract, in terms of its ownership and control of the accommodation as being the main subject matter of the contract and not objectively separable from the services component, the contract was arguably a mixed contract under the regulation 4 of the Public Contracts Regulations 2015 (the Regulations) and therefore could to be procured outside the Regulations or alternatively one where competition was absent for technical reasons (Regulation 32(2) (b) (ii)) which could therefore attract a direct award under the Regulations. Previous reports also explained the justification, risk, and mitigation of securing the Permanent Housing services element as a direct award by way of an exemption to the Councils Contract Procurement Rules (CPR's) and in particular with procurement regime under the Regulations. As mentioned above , both the Permanent and Temporary Housing services are provided through the Housing Management Contract with Orchard and Shipman.
- 15.8 The Procurement Implications comments in paragraph 10 in this report set out the relevant considerations and reasons to support the recommendation to exercise the 1-year extension and relevant authorisation under the CPR's (CPR 13.1 and 23.7).
- 15.9 Further report recommendations are seeking approval from the Executive to secure the provision of services in relation to the management of the PSL housing stock under the existing contract with Orchard and Shipman and to also include additional new leases/properties, by way of a new contract directly negotiated and awarded on the basis that this is permitted under the Regulations as explained in paragraph 15.7 above. However, in relation to the Permanent and other Temporary Housing services the Council must carry out a procurement process as required by the Regulations .The report recommendations are seeking approval in principle to advance this procurement subject to the outcome of market engagement; a draft specification and a further report to the Executive.
- 15.10 In terms of the housing stock secured through the Beehive Scheme with Orchard and Shipman in preparation for the tender exercise described in this report, the Council need to determine its options in terms of the long-term management of the Beehive Properties. As explained in paragraphs 3.22 to 3.26 it is necessary to secure specialist external legal and financial advice in terms of the longer-term management options for these properties and the Executive is being asked to agree the allocation of funding for this purpose.

15.11 The Council must make decisions in accordance with the law and also in accordance with its fiduciary duty to its taxpayers in using Council resources. The report has set out options and explains the benefits including the financial and operational benefits that must be properly weighed up and considered before taking the decisions set out in the recommendations and also in the proposed future reports to the Executive.

Non-Applicable Headings:	Ward Councillor Views (16)
Background Documents: (Access via Contact Officer)	[Title of document and date]